

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

-against-

No.: 21-CR-1326-MV

EPIFANIO ESPINOSA,

Defendant.

FOURTH UNOPPOSED MOTION TO CONTINUE TRIAL SETTING AND TO EXTEND
THE PRETRIAL MOTIONS DEADLINE

COMES NOW Wayne Baker, Esq., counsel for Defendant Epifanio Espinosa, who, with the concurrence of assigned Assistant United States Attorney Paul Spiers, hereby moves this Honorable Court to continue the trial setting and to extend the pretrial motions deadline by a minimum of forty-five (45) days, and in support thereof, states as follows:

1. The procedural history and factual account contained in the prior motions to continue are hereby incorporated by reference.
2. The discovery has been provided by the Government and reviewed by the Defendant.
3. Plea negotiations have taken place and an updated plea agreement has been provided to the Defendant.
4. The Defendant has recently had his conditions of release modified to reflect a positive alcohol test and is now residing at La Pasada Halfway House.
5. Restrictions imposed on newly admitted residents of La Pasada Halfway House has prevented the Defendant from meeting with undersigned counsel to fully explain the plea agreement and all of the ramifications thereof.

6. The Defendant has difficulties reading and understanding the legal implications of evidentiary issues.
7. It is the Defendant's intention to resolve this matter without the need for a trial on the merits.
8. Counsel believes a forty-five-day (45) extension of the trial date and accompanying deadlines will be sufficient time to come to a reasonable resolution of this matter without the need for a trial.
9. The Speedy Trial Act ("Act") requires that a federal criminal trial commence within seventy (70) days of the later of the filing of the information or indictment or the defendant's initial appearance. 18 U.S.C. § 3161(c)(1). However, the Act excludes from the seventy-day period, *inter alia*, "[a]ny period of delay resulting from a continuance . . . if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). See also United States v. Toombs, 572 F.3d 1262 (10th Cir. 2009).
10. The Defendant has been advised of the provisions and parameters of the Speedy Trial Act and the implications of waiving speedy trial time.
11. The Defendant wishes to waive his rights under the Speedy Trial Act, 18 U.S.C. § 3161, for the continuance time requested herein, which should be excluded from the statutory time limits as the interests of justice will best be served by providing for a continuance potentially resulting in an agreed disposition.
12. The assigned AUSA has been informed of the contents of the instant motion and concurs with the requested forty-five-day (45) day continuance.
13. This is undersigned counsel's fourth request for a continuance.

WHEREFORE it is requested that the Court grant the instant Unopposed Motion to Continue Trial Setting and to Extend the Pretrial Motions Deadline and issue an Order in accordance therewith.

Respectfully submitted:

Wayne Baker

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I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court on December 9, 2022, using the CM/ECF system.

Wayne Baker

Wayne Baker, Esq.